

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ERWIT MARTINEZ,

No. C 07-03974 SBA (PR)

Plaintiff,

**ORDER REGARDING IN FORMA
PAUPERIS MOTION**

v.

MS. CONNIE, Nurse Practitioner

Defendant.

Plaintiff, a state prisoner, filed this pro se civil rights action under 42 U.S.C. § 1983. On that same date, the Clerk of the Court sent Plaintiff a notice directing him to pay the filing fee or to file a completed in forma pauperis (IFP) application. Plaintiff filed a completed IFP application and a copy of his Certificate of Funds; however, Plaintiff did not file a copy of his prisoner trust account statement.

Ordinarily, a plaintiff is permitted to file a civil action in federal court without prepayment of fees or security if he submits an affidavit that he is unable to pay such fees or give security therefor. See 28 U.S.C. § 1915(a). If the plaintiff is a prisoner who alleges that he is unable to pay the full filing fee at the time of filing, he must submit: (1) an affidavit that includes a statement of all assets he possesses, and (2) a certified copy of the trust fund account statement for the prisoner for the six-month period immediately preceding the filing of the action, obtained from the appropriate official of each prison at which the prisoner is or was confined. See id. § 1915(a)(1), (2). If the court

1 determines that the plaintiff is unable to pay the full filing fee at the time of filing, the plaintiff will
2 be granted leave to proceed IFP. This means that the filing fee must be paid by way of an
3 installment plan, according to which the court first will assess and collect a partial filing fee from the
4 prisoner, and then the prisoner will be required to make monthly payments of twenty percent of the
5 preceding month's income credited to Plaintiff's account until the full \$350.00 filing fee is paid. Id.
6 § 1915(b)(1). The agency having custody of the prisoner is responsible for forwarding to the court
7 payments from Plaintiff's account each time the amount in the account exceeds ten dollars. See id.

8 Therefore, before the Court will proceed to review the complaint Plaintiff is hereby
9 ORDERED to file a copy of his prisoner trust account statement. Plaintiff shall do so within **thirty**
10 **(30) days** of the date of this Order.

11 **Failure to file a copy of Plaintiff's prisoner trust account statement as ordered herein**
12 **by the thirty-day deadline shall result in the dismissal of this action without prejudice.**

13 IT IS SO ORDERED.

14 DATED: 12/14/07


SAUNDRA BROWN ARMSTRONG
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ERWIT MARTINEZ,

Case Number: CV07-03974 SBA

Plaintiff,

CERTIFICATE OF SERVICE

v.

NURSE PRACTIONER MS. CONNIE et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on December 17, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Erwit Martinez BK#07006914
Santa Clara County Department of Corrections
PFN DVN097
885 North San Pedro Street
San Jose, CA 95110

Dated: December 17, 2007

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk

United States District Court
For the Northern District of California